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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JAMES MILSTEAD, et al.,

Plaintiffs,

v.

GENERAL MOTORS LLC, et al.,

Defendants.

Case No. 4:21-cv-06338-JST

**JOINT CASE MANAGEMENT
STATEMENT**

Date: January 24, 2025
Time: 1:30pm
Judge: Hon. Jon S. Tigar

Pursuant to the Court's scheduling order (ECF 260) the parties submit the following joint case management statement in advance of the case management conference scheduled for January 24, 2025.

I. Status of Discovery

1. Plaintiffs served their first set of Requests for Production (RFPs) on GM on November 22, 2023. GM served responses and objections on December 22, 2023. Plaintiffs have

1 reviewed GM's productions in response to the first set of RFPs. The parties will continue to meet
2 and confer about GM's responsive productions, as necessary.

3 2. Plaintiffs served their second set of RFPs on GM on March 18, 2024. GM served
4 its responses on April 22, 2024. After reviewing GM's responses to the second set of RFPs,
5 Plaintiffs served a subpoena on Aptiv, as discussed below. The parties will continue to meet and
6 confer as necessary.

7 3. Plaintiffs served their third and fourth set of RFPs on GM on May 20, 2024. GM
8 served their responses and objections to Plaintiffs' third set of RFPs on July 19, 2024, and their
9 responses and objections to Plaintiffs' fourth set of RFPs on July 26, 2024. The parties are
10 meeting and conferring as necessary to narrow disputes.

11 4. GM made rolling document productions on May 20 and 29, 2024, June 6 and 27,
12 October 10, 2024, and most recently made a production on December 23, 2024; GM will continue
13 to make productions on a rolling basis. To date, GM has produced over 1 million pages of
14 documents responsive to Plaintiffs' RFPs, as well as two hard drives containing over 250 GB of
15 technical data.

16 5. On August 12, 2024, GM provided Plaintiffs with its initial list of ten proposed
17 document custodians. In accordance with the parties' stipulated ESI Protocol, Plaintiffs requested
18 that GM disclose all individuals it has identified as likely to possess relevant knowledge so that
19 the parties may confer as to the most appropriate individuals from whom to collect documents
20 and other data, and stated that a list identifying when and to whom litigation holds were issued in
21 connection with this litigation would be sufficient as to current employees and custodians. *See*
22 ECF 233, §5(a). GM does not agree that the ESI Protocol or Rule 26 required it to identify "all
23 individuals" it has identified as possessing relevant knowledge, as doing so would not be
24 proportional to the needs of the case. On October 11, 2024, GM provided a list of 53 individuals
25 (former and current employees) who were sensing or occupant performance engineers during the
26 relevant period or who GM otherwise identified through a reasonable investigation who are either
27 on legal hold or whose data is being preserved. Plaintiffs evaluated GM's list of individuals
28 subject to legal hold/preservation, and the parties have continued to meet and confer as to

1 Plaintiffs' further requests for information about these individuals and their data sources. Based
2 on further information from GM and their own investigation, Plaintiffs are finalizing a
3 counterproposal for custodians that Plaintiffs believe will be a reasonable and proportionate
4 reflection of the scope of the case, and expect to present it to GM before the Case Management
5 Conference. The parties will continue to meet and confer about GM's custodians and aim to
6 reach agreement in the near term. The parties also anticipate further meet and confer efforts will
7 be needed on GM's recent search term disclosure, which GM provided to Plaintiffs on January
8 10, 2025. Plaintiffs are assessing GM's proposed search terms and will respond promptly thereto.

9 6. Plaintiffs have raised with GM that they seek to take a Rule 30(b)(6) deposition
10 regarding corporate structure, ESI preservation, and data sources to identify relevant custodians,
11 third parties, and learn about the manner and methods used by GM store and maintain ESI. GM
12 reserves all rights to oppose any such deposition. The parties will continue to meet and confer
13 regarding custodial searches.

14 7. Plaintiffs served their first set of Interrogatories on GM on July 17, 2024. GM
15 requested extensions on the response date, which Plaintiffs granted as a professional courtesy.
16 During the extension period, GM requested, and plaintiffs agreed to meet and confer to address
17 objections to the Interrogatories prior to service of responses and objections. Following those
18 conferrals, GM served its responses and objections on September 13, 2024. Plaintiffs are
19 evaluating GM's responses and objections, including for supplementation as discovery proceeds.

20 8. Plaintiffs served a subpoena to produce documents on third party Aptiv (formerly
21 known as Delphi/Delco) on May 20, 2024. Plaintiffs and Aptiv negotiated and agreed to use
22 model year 2012 as a test production to inform and narrow, where possible, the scope of future
23 productions for all other model years. On August 9, 2024, Aptiv made its first production, which
24 Plaintiffs reviewed and used to inform their continued negotiations with Aptiv regarding the
25 scope of materials to produce and the priority vehicle platforms. Aptiv thereafter commenced
26 rolling productions for remaining model years (1999-2011, 2013-2018). Aptiv has made several
27 rolling productions, including most recently on December 19, 2024. Plaintiffs are reviewing and
28

1 assessing Aptiv's initial productions, and will continue to follow up with Aptiv on its subpoena
2 response and the resulting productions received.

3 9. GM reserves all rights with respect to Plaintiffs' subpoena to Aptiv, including
4 because GM has not been included in negotiations between Plaintiffs and Aptiv nor has it been
5 provided an opportunity to give input into any of the alleged agreed to "test productions" or
6 "prioritizations" discussed above. As discussed below, GM anticipates serving its own document
7 subpoena on Aptiv in the next week or so that will seek non-duplicative discovery from Aptiv.

8 10. GM served its first set of RFPs and Interrogatories as to each named Plaintiff on
9 April 10, 2024. Plaintiffs served their responses and objections to the RFPs on May 10, 2024, and
10 their responses and objections to the Interrogatories on May 24, 2024 (pursuant to a two-week
11 extension, which GM also granted as a professional courtesy). The parties exchanged written
12 correspondence regarding Plaintiffs' responses and objections and held a meet-and-confer call via
13 video conference, where the parties resolved several disputes. Plaintiffs made their initial
14 document production in response to GM's first set of RFPs on July 12, 2024, and made a second
15 production on September 30, 2024. To date, Plaintiffs have produced 63 documents totaling 212
16 pages. Plaintiffs have agreed to provide supplemental interrogatory responses reflecting the
17 resolved disputes referenced above. The parties will continue to negotiate custodians and search
18 terms for Plaintiffs, including information and documents related to third-parties Chris Caruso
19 and Sal Fariello.

20 11. In connection with Plaintiffs' production, plaintiff James Milstead produced his
21 vehicle purchase agreement, which contained an arbitration clause. As asserted in GM's
22 affirmative defenses to Plaintiffs' Third Amended Complaint, GM anticipates that many absent
23 class members purchased their vehicles subject to sales contract that contain arbitration clauses.
24 See ECF 214 at 34 (GM. Aff. Defense No. 23). GM has advised Plaintiffs that based on the
25 individualized circumstances of Mr. Milstead's purchase and the claims he asserts, it does not
26 intend to move to compel him to arbitration based on his purchase agreement. GM's position is
27 subject to change based on further developments during fact discovery or amendments to the
28 pleadings, if any. GM further reserves its rights to raise arbitration issues in opposition to

1 Plaintiffs' Class Certification Motion or in support of or in response to any other motion as
2 appropriate. Plaintiffs are not presently aware of any valid grounds for arbitration of the claims in
3 this litigation and reserve their rights to oppose any such defenses or attempts to compel
4 arbitration when and if GM raises them.

5 12. Plaintiffs will continue to make productions on a rolling basis.

6 13. The parties have conferred about their anticipated subjects of discovery in this
7 matter. *See* ECF 216 at 6-7 (presenting the parties' positions on anticipated discovery).

8 14. GM anticipates serving additional discovery on and deposing the named Plaintiffs.
9 GM anticipates issuing and serving document subpoenas on Aptiv (f/k/a Delphi), Chris Caruso,
10 and Sal Fariello within the next week or so, and anticipates seeking depositions after receiving
11 any document productions. GM further anticipates serving discovery on and/or deposing certain
12 third parties, including absent class members. Plaintiffs reserve their rights to object and move to
13 quash or limit such third party discovery at the appropriate time.

14 15. The parties have not otherwise discussed specific discovery that is not yet
15 propounded at this time.

16 **II. Other Issues**

17 16. The parties negotiated and agreed on a stipulated extension of the deadline for
18 Plaintiffs to file their motion for class certification, and a commensurate extension of the related
19 expert and briefing deadlines. ECF 261. The Court ordered the stipulated extension, and
20 Plaintiffs' class certification motion and expert disclosures are due December 12, 2025. ECF 262.

21 17. The parties do not have other matters or disputes requiring the Court's attention at
22 this time.

1 Dated: January 17, 2025

Respectfully submitted,

2 By: /s/ David Stellings

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ATTESTATION (CIVIL LOCAL RULE 5-1(i)(3))

In accordance with Civil Local Rule 5-1(i)(3), I attest the concurrence in the filing of this document has been obtained from the signatories.

Dated: January 17, 2025

/s/ David Stellings

David Stellings

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 17, 2025 a true and correct copy of the foregoing was electronically filed and served electronically via the Court's CM/ECF system, which will automatically serve notice to all registered counsel of record.

/s/ David Stellings
David Stellings